

NEPA Forecast Report December 21, 2016

APPROACHING DEADLINES (NEXT 2 WEEKS)

HQ/DOS/Supplemental DEIS/Line 67 (expected late December):

- **Description:** The proposal is an expansion of an existing pipeline to transport an additional 390,000 bpd of heavy oil sands crude from Alberta, Canada to Superior, WI. This proposal is complicated by interconnections with the adjacent Line 3 that allow Enbridge to transport up to the expanded capacity without approval.
- **Status:** OFA has received the latest version of the preliminary Supplemental DEIS. In this version, DOS has provided additional detail regarding transport and displacement scenarios to consider how the combined usage of Lines 67 and 3 would affect greenhouse gas emissions in the cumulative impacts section of the document.
- **Way forward:** OFA is working on draft comments.

R4/NRC/Final EIS for Combined Licenses for Turkey Point Nuclear Plant Units 6 and 7 (due 12/23/16)

- **Description:** The proposed project is an application for construction permits and operating licenses for two new Turkey Point nuclear reactors near Biscayne Bay and the Everglades National Parks. Currently there is a natural gas plant (Unit 1), a natural gas combined cycle generating unit (Unit 5), as well as two nuclear plants (Units 3 and 4 built in the 1970's) operating at the site. An older fossil fuel plant has been closed and decommissioned. Originally the facility discharged their cooling water directly to Biscayne Bay. In 1971, Florida Power and Light (FPL) entered into a Consent Decree with EPA to cease the discharges to the bay and ultimately, construct a 5,900 acre cooling canal system at the site adjacent to the bay. Water, as it leaves the nuclear reactors, is pumped through the surface canal system, and then returns to the reactors.
- **Rating:** DEIS was rated EC-2
- **Concerns:** There are concerns with the westward migration of the hypersaline groundwater plume potentially rendering the Biscayne Aquifer non potable and affecting major drinking water wells. The NPS and others are concerned with the nutrients and other pollutants showing up in the bay, causing algae blooms and other impacts.
- **Status:** There is press and Congressional interest due to issues with the existing cooling canals and plant operations. FL DEP issued a warning letter to FP&L and a NOV pertaining to current discharges. There was also a congressional letter to the Administrator urging EPA to enforce its CWA authority regarding this matter. R4 WPD responded. The comment letter has been sent to the AA for review.
- **Way Forward:** NRC granted an extension until 12/23.

R9/USFS/Horse Creek Community Forest Restoration/ Scoping Comments (due 12/23/16):

The USFS is proposing to reduce fuels along egress and ingress roads, on strategic ridges, and adjacent to private property; to reduce safety hazards along roads and in concentrated stands along its 40,000 acre boundary or Horse Creek CA. OFA is reviewing GHG and climate change comments from Region 9, and will provide those comments to the AA for review.

R9/BLM/The Northwest California Integrated Resource Management Plan/Scoping (tentatively due 12/28/16) The planning area includes approximately 396,000-acres of BLM-managed public lands and this RMP will establish management goals and actions to maintain, develop, and protect the resource values of BLM-managed lands in Humboldt, Mendocino, Del Norte, Trinity, Shasta, Siskiyou, Butte and Tehama counties in Northern CA. Examples include the Samoa Dunes and Chappie-Shasta off-highway-vehicle recreation areas, the Eel and Trinity rivers, and the Sacramento River Bend Outstanding Natural Area. Draft climate change comments are currently being reviewed. Scoping comments are due 2/3/17.

R3/FRA/Baltimore & Potomac Tunnel Project/FEIS/(due 12/27/16): The Federal Railroad Administration has prepared an FEIS for a proposal to improve the structural and operational deficiencies in the existing Baltimore & Potomac Tunnel, improve passenger rail service, and support existing and future demands along the Northeast Corridor. OFA is reviewing climate change comments on the FEIS from Region 3, and will send these comments to the AA for review.

R3/USFWS/ Proposed Oil & Gas Coalition Multi-State Habitat Conservation Plan for Ohio, Pennsylvania, and West Virginia/ Scoping Comments (due 12/27/16): USFWS released an NOI to prepare a DEIS for the proposed issuance of an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act (ESA) for the draft Oil & Gas Coalition Multi-State Habitat Conservation Plan (O&G HCP). The O&G HCP is being developed to streamline environmental permitting and compliance with the ESA for nine companies in conjunction with their respective midstream and upstream oil and gas exploration, production, and maintenance activities in Ohio, Pennsylvania, and West Virginia over a 50-year period. Region 3 is writing scoping comments and we are coordinating with the region on climate change language.

HQ/BOEM/Outer Continental Shelf Oil and Gas Leasing Program for 2017-2022/Final PEIS (due 12/27/2016): The final PEIS assesses the potential environmental impacts of a range of program alternatives aimed at establishing a schedule that will be used for considering where and when oil and gas leasing may be appropriate over a five-year period. The draft PEIS was rated as EC-2 due to the lack of sufficient information on indirect GHG emissions associated with processing, distribution and end-use consumption of oil and gas produced on the OCS.

HEADQUARTERS REVIEWS

Nothing to report

PROGRAM ISSUES

Nothing to report

ELEVATED VISIBILITY

Nothing to report

ANTICIPATED ADVERSE RATINGS

R8/USFS/Supplemental DEIS/Hunter/Monument No. 1 Reservoir Expansion (Pre-Supplemental DEIS expected late Feb. 2017):

- **Description:** The supplemental DEIS evaluates a special-use authorization to reconstruct and enlarge Hunter Reservoir and also includes the enlargement of Monument No. 1 on the Grand Mesa National Forest near Colbran, CO. The 2007 DEIS proposed the Hunter Reservoir expansion only, and was assigned an adverse rating due to impacts to a 32-acre high quality montane peat/fen wetland complex and lack of a range of alternatives. EPA reiterated concerns with the proposed project in scoping comments sent in February 2016, especially in light of the addition of Monument No. 1 and increased future water needs projected by the project proponent. Over the next 30 years, demand is projected to increase by two and a half times the current amount of 14,300 acre-feet, and the reservoir storage is for periods of drought.
- **Rating:** The 2007 DEIS was rated as “EU-3.”
- **Concerns:** EPA’s main concerns are for the potentially environmental unsatisfactory impacts to the fen/montane wetland complex and the habitat it provides from Hunter plus Monument No.1. EPA is also concerned about the lack of consideration of other reasonable, less damaging alternatives that would meet the water capacity needs with reduced adverse impacts.
- **Status:** Region 8 has been working with the USFS and COE since 2004 on this project. After the 2007 Adverse Rating, formal negotiations lead to the COE identifying Monument No. 1 as the LEDPA. Now that Ute Water has increased its projection of future water needs, the applicant claims they must include both Monument No. 1 and Hunter as the proposed action. Region 8 heard this week that the USFS is trying to add a new alternative that will evaluate a larger expansion of the Monument 1 capacity and eliminate the need to enlarge Hunter Reservoir. We are awaiting information on this possible new alternative, as well as proposed mitigation measures.
- **Way Forward:** Region 8 expects to receive the internal pre-supplemental DEIS for review in Late Feb. 2017. We would like to resolve any outstanding issues, including discussing potentially less damaging alternatives, before the supplemental DEIS is published in the Federal Register.

R9/Bureau of Reclamation/Administrative Final EIS/Bay Delta Conservation Plan/Waterfix (FEIS possible December 2016):

- **Description:** In the 2013 DEIS, the BDCP was proposed as a Habitat Conservation Plan with dual goals of improving the reliability of water supply AND restoring the Bay-Delta ecosystem. In the Supplemental DEIS, the project is recast as the Bay Delta Conservation Plan (BDCP)/“WaterFix”, focused on water supply, with Bureau of Reclamation (BOR) as the sole federal lead agency. CA DWR remains the State Lead. In 2014/15, EPA participated in a series of interagency policy and technical meetings with the State and other federal agencies to discuss our DEIS comments. Governor Brown announced the non-Habitat Conservation Plan Alternatives and new direction in a press conference on 4/30/15. EPA sent BOR a brief comment letter on the Supplemental DEIS on October 30, 2015. The letter highlights the ongoing regulatory processes that will eventually provide information to inform BOR’s decision regarding operations, but does not recommend another draft supplemental EIS.
- **Rating:** The 2015 SDEIS was rated a “3”.

- **Concerns:** EPA's main concerns regard declining water quality in the Bay Delta and how this proposal would contribute toward it.
- **Status:** Region 9 heard from BOR that it is possible that BOR will publish the FEIS this month. Region 9 is concerned that BOR may move forward to publish the FEIS prior to designation of water quality standards, and completion of section 404 permitting and the biological opinion.
- **Way Forward:** Region 9 continues to discuss strategy and anticipates the release of the Final EIS.

HEADQUARTERS INTERESTS

Strategic Discussion with the USACE on the NEPA process: The refusal of the Corps to share EAs for review and make them available for public disclosure is a widespread issue that triggers strategic implications. We are reaching out to regions to provide additional examples of Corps projects where there was a lack of collaboration and transparency in the NEPA process of projects that have potentially significant environmental impacts.

HQ/Implementation of FAST-41: The Guidance is complete following much discussion. It is scheduled to be issued in early 2017 and issued as a circular in 2018. Further, all agencies have received the Draft Report on Recommended Best Practices for review. The statute requires the Council issue the Final Report. Upon publication of the Final Report, all agencies with authority to delegate permitting authority, which includes EPA, must begin a "national process, with public participation". Then, by December 2017, as appropriate, EPA will make model recommendations for State modification of permit programs for consideration of best practices.

NEPA Compliance for NRDA Projects: We need to discuss the potential for a conflict of interest when we are completing our NEPA 309 review of NRDA projects where we are not the lead agency, considering we are made an action agency through the signing of the ROD. We would like to create a plan for collaboration should a case arise where our comments on the preliminary drafts have not been addressed and we have significant issues with the document when the DEIS is made public. Projects and documents have been coming in from the Trustee agencies and OW is working on a collaboration process plan for OFA to review. We would like to have a meeting after the document is complete with OW and the regions to ensure meaningful collaboration and communication on the NEPA documents for the NRDA restoration plans and projects.

REGIONAL INTERESTS

Nothing to Report

CONTINUING MEDIA/LITIGATION/OTHER INTEREST

R8/BLM/Post DEIS/Enefit Utility Corridor Project: The EIS evaluates 5 proposed utility right-of-ways across BLM land in the Uintah Basin to supply and deliver product from a proposed oil shale project on private/state lands. The utility project is receiving a lot of public scrutiny because of the proposed mining operation. EPA provided comments on the DEIS on

July 15, 2016. EPA rated the preferred alternative a “3” due to a lack of quantitative analysis of the environmental impacts of the oil shale project and requested the development of a supplemental EIS to address these concerns.

R1,2/EPA/Supplemental FEIS/Eastern Long Island Sound Dredged Material Disposal Site Designation: On August 4, 2016, the Governor of NY sent a letter opposing the designation of an ocean dumping site in Eastern Long Island Sound and stating his intent to initiate legal action against EPA challenging any final rule designating permanent disposal sites in Eastern Long Island Sound. NY has objected under CZMA to a site being designated. R1 has posted a pre-publication of the Final Rule and associated FSEIS for the Eastern Long Island Sound Designation on EPA Region 1’s public website. In addition, they have responded to NY’s CZMA objection. The Final Rule and FSEIS was published in the FR on 12/6/16 and will take effect on 1/5/17.

LOOK AHEAD

Looking forward Report: The attached report provides a heads up on upcoming projects beyond two weeks (see attached report).

MISCELLANEOUS ITEMS AND UPDATES

Professional Technical Writing/Writing for Results: Researching options and prices for group training.

Meyers Briggs Training and follow up/Group Discussion

USFWS Letter Response to EPA Letter on the National Wildlife Refuge System non Federal Oil and Gas Regulations Final EIS: We would like to discuss the approach to respond to the USFS letter.

NPS Letter Response to EPA Letter on the Revision of 9B Regulations Governing Non-federal Oil and Gas Activities Final PEIS: We would like to discuss the approach to respond to the NPS letter.

Coordination with FERC on NEPA Issues: EPA met with FERC on November 1st and will continue discussions as appropriate.

National Historic Preservation Act (NHPA) Compliance:
BLM EIS for Development near Chaco Canyon (pending)
NHPA Consultation Section 106 VA, Region 8 (filed EIS)

On-going tribal consultations regarding the review of Infrastructure Projects: NEPA has been raised in these discussions as a way to address tribal concerns over large-scale infrastructure projects.

EJ Model language and SOPS: NCD is working on this.

Vision Document: NCD is working on a vision for the NEPA program.